



Applicant : G. Douglas Baldwin Art Unit: : 3644  
Serial No. : 10/693,800 Examiner: : T. Dinh  
Filing Date : October 24, 2003  
Title : Tailboom-Stabilized VTOL Aircraft

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

### INFORMATION DISCLOSURE STATEMENT

Dear Sir:

Applicant discloses the following references, which are listed on Form PTO-1449 attached to this document. Pursuant to the OG Notice of August 5, 2003, copies of the cited U.S. patents are not included.

This application incorporates by reference U.S. patent application Serial No. 09/976,348, filed October 12, 2001. Additional references are cited in the file of that application and may be of interest to the Examiner.

To ensure full compliance with the duty to disclose information that is material to patentability, applicant submits a concurrently filed "Declaration of G. Douglas Baldwin" (cited in the Form PTO-1449 under the ID code "AQ") to disclose certain activities that took place more than one year before the filing date of this application. Applicant's declaration references various files, including document (printed-out PDF files) and videos (available for the Examiner's viewing in MPEG format on the included CD-ROM) that the Form PTO-1449 cites under the ID codes "AS" through "BG." Also concurrently filed is a "Declaration of Edwin A. Suominen" (cited under the ID code "AR") with Exhibits A-C.

The disclosures to discrete individuals discussed in applicant's declaration for purposes of securing feedback or financial backing and not for commercialization do not invoke the "on sale" bar of 35 U.S.C. § 102(b). E.g., Pfaff v. Wells Electronics, Inc., 48 USPQ2d 1641, 1642 (U.S. 1998) ("the product must be the subject of a commercial offer for sale"); In re Kollar, 62 USPQ2d 1425, 1427 (Fed. Cir. 2002) (inventor's entering into agreement with corporation to conduct R&D, obtain royalty payments, and define goal

of later obtaining corporate approval for a commercial plant was not a commercial offer for sale). Neither were the files that applicant transmitted to the individuals during the disclosures "printed publications" under that section. Preemption Devices v. Minnesota Mining & Mfg. Co., 221 USPQ 841, 843 (Fed. Cir. 1984) (inventor's mailing six copies of brochure to friend with "a view to their being used to get some financial backing" and with "no evidence to show further dissemination by the friend" was not a "publication").

Indeed, none of the cited files can be considered a "printed publication" or any other type of prior art under 35 U.S.C. § 102 with respect to the claims of this application. A document may qualify as a "publication" under 35 U.S.C. § 102(b) only "so long as accessibility is sufficient to raise a presumption that the public concerned with the art would know of the invention." In re Bayer, 196 USPQ 670, 674 (CCPA 1978) (citations omitted). Public accessibility is the touchstone in determining whether a reference constitutes a "printed publication." Norian v. Stryker, 70 USPQ2d 1508, 1515 (Fed. Cir. 2004); Northern Telecom v. Datapoint, 15 USPQ2d 1321, 1325 (Fed. Cir. 1990) (documents were not printed publications because of a lack of public access to the documents "by the exercise of reasonable diligence").

Documents that are housed in publicly accessible surroundings but are rendered inaccessible because of a lack of cataloging or indexing are generally not considered publicly accessible. In re Cronyn, 13 USPQ2d 1070, 1072 (Fed. Cir. 1989) (three student theses in two university libraries "were not accessible to the public because they had not been either cataloged or indexed in a meaningful way"); In re Bayer, 196 USPQ 670, 674 (CCPA 1978) (without "customary research aids available in the library, the probability of public knowledge of the contents of the thesis was virtually nil"). The files posted to applicant's web server were similarly uncataloged (not even in a Web directory) and unindexed (not even by a search engine) before the critical date.<sup>1</sup> The

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<sup>1</sup> There are several billion Internet addresses. No search engine, web directory, or referring sites were in any position before the critical date to provide guidance as to the server's address. A member of the public concerned with the art pertaining to applicant's invention would not have been able to locate the desired documents through the use of reasonable effort.

cited documents and videos thus were not accessible to the public and cannot be considered printed publications under 35 U.S.C. § 102(b).<sup>2</sup>

Accordingly, and in view of the facts presented in his concurrently filed declaration and that of the undersigned with its Exhibits A-C, applicant respectfully submits that the files (cited in the concurrently filed Form PTO-1449 under ID codes "AS" through "BG") cannot be used as references against the claims of this application.

Please feel free to contact the undersigned if it would in any way advance prosecution of this application.

Respectfully submitted,  
G. DOUGLAS BALDWIN  
by his representative



Edwin A. Suominen  
Reg. No. 43,174

Dated: May 19, 2004

LOUIS J. HOFFMAN, P.C.  
14614 North Kierland Boulevard  
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<sup>2</sup> That the posted files were clearly not publicly accessible or "publications" makes it unnecessary to raise the question here of whether a video recording in digital form can be considered a "printed publication" at all, which applicant does not concede to be the case.



Form IPEO-1449 (Modified)

List of Patents and  
Publications for Applicant's  
Information Disclosure  
Statement

Serial No.: 10/693,800

Applicant(s): G. Douglas Baldwin

Group: 3644

Filed: October 24, 2003

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U.S. PATENT DOCUMENTS						
Examiner Initials	Document Number	Date	Name	Class	Subclass	Filing Date*
	AA 6,598,827	07/03	Kusic	244	17.11	10/02
	AB 6,347,764	02/02	Brandon et al.	244	17.11	
	AC 6,086,014	07/00	Bragg, Jr.	244	2	
	AD 5,863,013	01/99	Schmittle	244	48	
	AE 5,560,568	08/96	Schmittle	244	48	
	AF 5,395,073	03/95	Rutan et al.	244	48	
	AG 5,096,143	03/92	Nash	244	87	
	AH 5,067,668	11/91	Zuck	244	7 R	
	AI 4,928,907	05/90	Zuck	244	6	
	AJ 4,759,514	07/88	Burkam	244	17.21	
	AK 4,071,206	01/78	Magill	244	17.11	
	AL 3,966,142	06/79	Corbett et al.	244	12 A	
	AM 3,532,302	08/70	Dean	244	17.19	
	AN 3,404,737	08/68	Keder, Jr.	170	135.22	

\* Provided only for patents issued less than one year before applicant's earliest claimed filing date. May not be actual §102(e) date.

OTHER ART

Examiner Initials	Author, Title, Date, Pertinent Pages, Etc.
AO	Boeing Company. "V-22 Osprey Technical Specifications," web page from <a href="http://www.boeing.com/rotocraft/military/v22/v22spec.htm">http://www.boeing.com/rotocraft/military/v22/v22spec.htm</a> , dated 2003.
AP	TBF1avenger_fly.jpg. Image from <a href="http://www.seniornet.org/ww2/gallery/photos/planes/TBF1avenger_fly.jpg">http://www.seniornet.org/ww2/gallery/photos/planes/TBF1avenger_fly.jpg</a> , dated 05/01.
AQ	Declaration of G. Douglas Baldwin, dated May 19, 2004
AR	Declaration of Edwin A. Suominen, dated May 19, 2004
AS	"SkyTrain Open Rotor Aircraft," posted 09/02 on applicant's web server as <a href="#">skytrain_concept_document.pdf</a> .
AT	"SkyTrain Open Rotor Aircraft: Concept Drawings" posted 09/02 on applicant's web server as <a href="#">skytrain_concept_drawings.pdf</a> .

Examiner: \_\_\_\_\_

Date Considered: \_\_\_\_\_

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicants.

Form PTO-1449 (Modified)

Serial No.: 10/693,800

**List of Patents and  
Publications for Applicant's  
Information Disclosure  
Statement**

**Applicant(s):** G. Douglas Baldwin

**Group:** 3644

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**OTHER ART**

**Examiner  
Initials**

**Author, Title, Date, Pertinent Pages, Etc.**

_____ AU	"SkyTrain Open Rotor Aircraft Concept as a response to Preliminary Assessment of a Cargo Helicopter External Load System Concept," posted 09/02 on applicant's web server as <u>response_to_preliminary_assessment.pdf</u> .
_____ AV	Untitled drawings posted around 08/02 on applicant's web server as <u>army_drawings.pdf</u> .
_____ AW	"Vertical Lift Military Transport," posted around 08/02 on applicant's web server as <u>army_specification.pdf</u> .
_____ AX	"SkyTrain for Rapid Resupply," posted around 07/02 on applicant's web server as <u>army_presentation.pdf</u> .
_____ AY	"Vertical Lift Military Transport," posted around 06/02 on applicant's web server as <u>Skytrain Fan FAQ.pdf</u> .
_____ AZ	Untitled drawings posted around 06/02 on applicant's web server as <u>electric_free_wing_aircraft.pdf</u> .
_____ BA	Untitled drawings posted around 06/02 on applicant's web server as <u>fixed_wing_aircraft.pdf</u> .
_____ BB	Untitled drawings posted around 06/02 on applicant's web server as <u>Skytrain Fan Drawings.pdf</u> and <u>army.pdf</u> .
_____ BC	Untitled drawings posted around 06/02 on applicant's web server as <u>twin_engine_prototype.pdf</u> .
_____ BD	Untitled drawings posted around 06/02 on applicant's web server as <u>ultralight_craft.pdf</u> .
_____ BE	Video posted around 09/02 on applicant's web server as <u>heavy_lift.mpg</u> (on included CD-ROM with items "BF," "BG").
_____ BF	Video posted around 08/02 on applicant's web server as <u>army_comparison.mpg</u> (on included CD-ROM with items "BE," "BG").
_____ BG	Video posted around 0/02 on applicant's web server as <u>army.mpg</u> (on included CD-ROM with items "BE," "BF").

**Examiner:** \_\_\_\_\_

**Date Considered:** \_\_\_\_\_

**EXAMINER:** Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance *and* not considered. Include copy of this form with next communication to applicants.